

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DELTA PILOTS ASSOCIATION,
a labor organization
incorporated in Florida
Plaintiff

v.

JOHN DOE,
an individual
Defendant.

Civil Action No.: 1:14-cv-00225-AKH

**DECLARATION OF
STANLEY J. SILVERSTONE**

I, Stanley J. Silverstone, do declare as follows:

1. I am a senior litigation counsel in the law firm of Seham, Seham, Meltz & Petersen, LLP, admitted as counsel of record for the plaintiff Delta Pilots Association (“DPA”) in the above-cited matter.
2. I make this Declaration of my own free will, based on my personal, first-hand knowledge, unless otherwise specifically indicated.
3. This Declaration is submitted in support of Plaintiff’s memorandum of law in opposition to non-party Air Line Pilots Association’s (“ALPA”) “Emergency Motion Of The Air Line Pilots Association, International To Enforce The Court’s Protective Order Of August 14-15, 2014” filed on October 7, 2014 (Doc. No. 26).
4. As of the date of this filing, neither John Doe 1 nor any attorney for John Doe 1 has contacted myself, or any attorney in Seham, Seham, Meltz & Petersen, or DPA itself, or DPA Interim President Tim Caplinger – in response to this correspondence or this (withdrawn) lawsuit
5. In email correspondence I had with ALPA attorney Michael Abram, I asked, and Mr. Abram confirmed that he does not represent Doe 1, stating: “I wish to make clear that neither my firm nor any lawyer employed by ALPA represents the individual to whom you refer [for] purposes of any litigation that DPA intends to bring against that individual.” Attached and labeled as Exhibit A is a true and correct copy of email correspondence between myself and Michael Abram on

October 6 and 7, 2014. See page 2, Exhibit A.

6. On behalf of DPA, I attended the September 5, 2014 status conference. No other party attended. In a conversation with the Court I had that was off the record, I indicated to the Court that by September 30, DPA would either move to amend the complaint to name a defendant, or dismiss the action without prejudice.
7. On October 6, 2014, counsel for non-party ALPA, Michael Abram, sent an email to me, claiming that DPA was barred "... from publicly disclosing the identity of the individual identified privately during the August 14 hearing."
8. The email did not accuse DPA of actually disclosing anyone's identity, nor am I aware of any such accusation since.
9. Rather, Mr. Abram's email asked me to "confirm that neither DPA, nor you or Mr. Caplinger, has disclosed, and that none of you will disclose, the identity of that individual."
10. I responded to Mr. Abram's email to state: "Your email comes as a surprise because nothing in what you quote from the "Website Hacking Lawsuit Update" discloses the name of the individual who confessed his involvement in the hacking to ALPA in correspondence which ALPA unsuccessfully sought to conceal. In fact, the "Update" shows that DPA has complied in all respects with the confidentiality agreement in the action that is now over. That agreement provided for confidentiality of the individual's identity until we choose to name him as a party. We dismissed the action in NY because NY does not have personal jurisdiction over this individual. Your position that DPA cannot sue in the state that has personal jurisdiction without approval of the NY court (which does not have any jurisdiction) is patently absurd. Please let us know whether you will be representing this individual for all purposes, and whether you will accept service of process on his behalf." See Exhibit A.

Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 17, 2014

By: /s/ Stanley J. Silverstone
Stanley J. Silverstone, Esq.

Exhibit A

From: Michael E. Abram [mailto:mabram@cwsny.com]
Sent: Tuesday, October 07, 2014 10:01 AM
To: Stanley Silverstone
Cc: Jim Lobsenz; Art Luby (arthur.luby@alpa.org)
Subject: RE: Delta Pilots Association v. John Doe

Mr. Silverstone,

Further in response to your email yesterday afternoon, I wish to make clear that neither my firm nor any lawyer employed by ALPA represents the individual to whom you refer purposes of any litigation that DPA intends to bring against that individual.

In the meantime, I once again request your confirmation that DPA will not disclose the name of the individual without adherence to the protective order imposed by Judge Hellerstein.



Michael E. Abram
330 West 42nd Street
New York, NY 10036-6979
Tel: 212.356.0208
Fax: 646.473.8208
Cell: 917.592.7453

mabram@cwsny.com | www.cwsny.com

From: Michael E. Abram
Sent: Monday, October 06, 2014 5:37 PM
To: 'Stanley Silverstone'
Cc: Jim Lobsenz; Art Luby (arthur.luby@alpa.org)
Subject: RE: Delta Pilots Association v. John Doe

Dear Mr. Silverstone:

First, the individual to whom you refer did not “confess[] his involvement with hacking.”

Second, you are quite incorrect in your assertion that the in-Court “agreement provided for confidentiality of the individual’s identity until we choose to name him as a party.”

To the contrary, in the August 14 conference, the Court stated,

THE COURT: I think we have agreement. You can see the name. Mr. Abram will give it to you. Not on the record, but he will give it to you, write it on a piece of paper and give it to you. You will honor the confidentiality. You and Mr. Caplinger will honor the confidentiality until such time as I grant you permission to change the name of the caption or there is a stipulation to that effect, which I shouldn't

think would be withheld. Until then, you keep it quiet. All right, agreed?

You stated, in response,

It's agreed, your Honor.

The Court provided DPA multiple extensions, finally until September 30, to amend its complaint to name the so-called "John Doe" or dismiss the case without prejudice. This was not an invitation for DPA to act as if the confidentiality restriction did not exist simply because DPA dismissed the case. DPA and its counsel gave the Court a solemn undertaking, relied on by the Court and by ALPA; we expect DPA and its counsel to honor that undertaking and if you and DPA cannot promptly commit to doing so, we will ask the Court to require it and to provide such other relief as the Court deems appropriate.



Michael E. Abram
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From: Stanley Silverstone [<mailto:ssilverstone@ssmplaw.com>]

Sent: Monday, October 06, 2014 4:52 PM

To: Michael E. Abram

Subject: RE: Delta Pilots Association v. John Doe

Dear Mr. Abram:

Your email comes as a surprise because nothing in what you quote from the "Website Hacking Lawsuit Update" discloses the name of the individual who confessed his involvement in the hacking to ALPA in correspondence which ALPA unsuccessfully sought to conceal. In fact, the "Update" shows that DPA has complied in all respects with the confidentiality agreement in the action that is now over. That agreement provided for confidentiality of the individual's identity until we choose to name him as a party. We dismissed the action in NY because NY does not have personal jurisdiction over this individual. Your position that DPA cannot sue in the state that has personal jurisdiction without approval of the NY court (which does not have any jurisdiction) is patently absurd.

Please let us know whether you will be representing this individual for all purposes, and whether you will accept service of process on his behalf.

Stanley J. Silverstone
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From: Michael E. Abram [<mailto:mabram@cwsny.com>]

Sent: Monday, October 06, 2014 10:30 AM

To: Stanley Silverstone (ssilverstone@ssmplaw.com)

Cc: Jim Lobsenz; Art Luby (arthur.luby@alpa.org)

Subject: Delta Pilots Association v. John Doe

Dear Mr. Silverstone:

I write concerning a recent "Website Hacking Lawsuit Update" by DPA, in which DPA states as follows:

On September 29th, DPA voluntarily dismissed the DPA vs JOHN DOE lawsuit in New York Federal Court. We have harvested a great deal of information and have pinpointed key players in the crime. We have offered several opportunities for those involved to take public responsibility and avoid what is about to happen. Those offers have been refused. Anyone directly involved may still contact the DPA Attorney if their intention is to cooperate. Now, we are moving forward with a new named lawsuit in the home state of one of the key players. Once entered into the public record, all will begin to learn the identities of those involved and what organization they may be affiliated with.

I remind you that the Court's protective order of August 14, 2014 – to which DPA agreed -- remains in effect and bars DPA from publicly disclosing the identity of the individual identified privately during the August 14 hearing.

Please confirm that neither DPA, nor you or Mr. Caplinger, has disclosed, and that none of you will disclose, the identity of that individual.

**COHEN
WEISS**

Michael E. Abram

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NY, NY 10036-6070



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